

REMARKS/ARGUMENTS

This Amendment is being filed in response to the Office Action dated December 22, 2008. Reconsideration and allowance of the application in view of the amendments made above and the remarks to follow are respectfully requested.

Claims 1-17 are pending in the Application. Claims 11-17 are added by this amendment. By means of the present amendment, claims 1-10 are amended including for better conformance to U.S. practice, such as deleting reference numerals typically used in European practice that are known to not limit the scope of the claims. Further amendments include changing "characterized in that" to -- wherein--, amending dependent claims to begin with "The" as opposed to "A" and correcting certain informalities noted upon review of the claims. By these amendments, claims 1-10 are not amended to address issues of patentability and Applicants respectfully reserve all rights under the Doctrine of Equivalents. Applicants furthermore reserve the right to reintroduce subject matter deleted herein at a later time during the prosecution of this application or continuing applications.

By means of the present amendment, the Abstract has been deleted and substituted with the enclosed New Abstract which better conforms to U.S. practice.

Applicants thank the Examiner for acknowledging the claim for priority and receipt of certified copies of all the priority document(s).

In the Office Action, the specification is objected to for a lack of headings. Applicants respectfully decline to add the headings since the section headings may be inappropriately utilized in interpreting the claimed subject matter. Section headings are not statutorily required for filing a non-provisional patent application, but per 37 CFR 1.77 are only guidelines that are suggested for applicant's use. (See Miscellaneous Changes in Patent Practice, Response to comments 17 and 18 (Official Gazette, August 13, 1996) [Docket No: 950620162-6014-02] RIN 0651-AA75 ("Section 1.77 is permissive rather than mandatory. ... [T]he Office will not require any application to comply with the format set forth in 1.77"). Accordingly, withdrawal of the objection to the specification is respectfully requested.

In the Office Action, claims 1-4, 6-7 and 9-10 are rejected under 35 U.S.C. §103(a) over European Patent Publication No. WO

2004/098360 to Winstanley ("Winstanley") in view of U.S. Patent No. 4,988,019 to Dawes ("Dawes"). Claim 5 is rejected under 35 U.S.C. §103(a) over Winstanley in view of Dawes in further view of U.S. Patent Publication No. 2003/009638 to Cai ("Cai"). These rejections are respectfully traversed. It is respectfully submitted that claims 1-17 are allowable over Winstanley in view of Dawes alone and in view of Cai for at least the following reasons.

It is undisputed that "Winstanley et al fails to teach that the means for conducting the brewed beverage from the brewing chamber is characterized by squeezing the pad." (See, Office Action, page 3.) Dawes is relied on to supply that which is admitted missing from Winstanley, however, it is respectfully submitted that reliance on Dawes for supplying that which is admitted missing from Winstanley is misplaced.

Dawes shows a beverage dispensing system 10 (see, FIGs. 1-4) that includes "a lid member 11 which forms the cover to packing enclosure 12, straining container 13, tea bag 14, string member 15 and disc member 16." (See, Dawes, Col. 3, lines 38-43.) While Dawes does state that "disc member 16 is capable of placement within straining container 13 so as to be pressed against tea bag 14 (FIG. 4) so as to cause liquid within tea bag 14 to be drained

therefrom such that said liquid is capable of passing through openings 18 and into cup 19 as illustrated in FIG. 4", it is respectfully submitted that clearly, to depress the disc member 16, the lid member 11 must be removed.

Accordingly, even if the combination of Winstanley and Dawes is accepted as obvious in arguendo, which obviousness of the combination is respectfully refuted, it is respectfully submitted that incorporation of Dawes into Winstanley would clearly result in a combination wherein the brewhead 104 of Winstanley (see, FIGs. 1 and 3) must be opened to enable depression of the disc member 16 of Dawes.

Accordingly, it is respectfully submitted that the device of claim 1 is not anticipated or made obvious by the teachings of Winstanley in view of Dawes. For example, Winstanley in view of Dawes does not disclose or suggest, a device that amongst other patentable elements, comprises (illustrative emphasis added) "means for conducting the brewed beverage from the brewing chamber, comprising means for squeezing the one or more pads after the brewing process has been finished but before the brewing chamber is opened after the brewing process" as recited in claim 1, and as similarly recited in each of claims 10 and 14.

Winstanley is admitted for not disclosing or suggesting this feature and clearly, Dawes requires removal of the lid to enable depression of the disc member 16.

Cai is introduced for allegedly showing an element of a dependent claim and as such, does nothing to cure the deficiencies in each of Winstanley and Dawes.

Based on the foregoing, the Applicants respectfully submit that independent claims 1, 10 and 14 are patentable over Winstanley in view of Dawes and notice to this effect is earnestly solicited. Claims 2-9, 11-13 and 15-17 respectively depend from one of claims 1, 10, and 14 and accordingly are allowable for at least this reason as well as for the separately patentable elements contained in each of the claims.

For example, it is respectfully submitted that the device of claim 8 is not anticipated or made obvious by the teachings of Winstanley in view of Dawes. For example, Winstanley in view of Dawes does not disclose or suggest, a device that amongst other patentable elements, comprises (illustrative emphasis added) "a latch mechanism configured to keep the brewing chamber closed, which latch is releasable only when the lid is pressed downwards when the lid is in a closed position" as recited in claim 8 and as

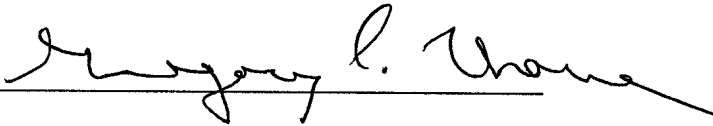
similarly recited in each of claims 13 and 17, nor a device "wherein a central portion of the upper wall is spherically extended in a downward direction" as recited in claim 9 and as similarly recited in each of claims 12 and 16.

Accordingly, separate consideration of each of the dependent claims is respectfully requested.

In addition, Applicants deny any statement, position or averment of the Examiner that is not specifically addressed by the foregoing argument and response. Any rejections and/or points of argument not addressed would appear to be moot in view of the presented remarks. However, the Applicants reserve the right to submit further arguments in support of the above stated position, should that become necessary. No arguments are waived and none of the Examiner's statements are conceded.

Applicants have made a diligent and sincere effort to place this application in condition for immediate allowance and notice to this effect is earnestly solicited.

Respectfully submitted,

By 

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